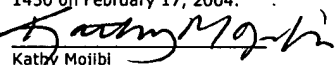


# UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:  KENT, Marsha LYNCH, Ron  Serial No.: Filed Concurrently Herewith  Filed: February 17, 2004  Title: Light Therapy Device	Examiner: Not Yet Assigned  Group Art Unit: Not Yet Assigned  <div style="border: 1px solid black; padding: 5px;"><p style="text-align: center;">Certificate of Mailing</p><p>I hereby certify that this correspondence is being deposited with the United States Postal Service Express Mail Service, Label No. ER779121245US in an envelope addressed to Special Program Examiner for Group 3634, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 17, 2004.</p><p style="text-align: right;"> Kathy Mojibi</p></div>
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

## PETITION TO MAKE SPECIAL

Sir:

Applicants hereby petition to make this application special pursuant to the Advancement of Examination procedures set forth 37 C.F.R. §1.102(d) and MPEP 708.02 on the grounds that a search of the prior art has been made.

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## REMARKS

In accordance with MPEP 708.02, Part VIII, subparagraphs (A) through (E), the Applicant states as follows:

**(A) Petition Fee.** The Commissioner is hereby authorized to charge the Petition Fee of \$130.00 as set forth in 37 C.F.R. §§ 1.102(d) and 1.17(h) to our Deposit Account No. 50-2922.

**(B) All Claims Directed to Single Invention.** All the claims in the pending application are directed to a single invention. The claims, as filed, do not define independent and distinct inventions; therefore, no restriction should be required.

Nevertheless, if the Patent Office determines that the claims are not directed to a single invention, then the Applicants will make an election without traverse as a prerequisite to the grant of special status for the pending application. The Applicants

prefer, however, to defer any required election until the Patent Office determines that a restriction is required and, then, to make any such election using the established telephone restriction practice, as permitted in MPEP 708.02, Part VIII (B).

**(C) Search Made.** The Applicants have conducted a pre-examination search using the services of Terry W. Kramer, Esq. of Kramer & Associates. A copy of Mr. Kramer's letter is attached to this Petition as Exhibit 1, and incorporated herein by reference.

Mr. Kramer's letter sets forth the search field, including the classes and subclasses (U.S. and foreign), and the examiners consulted during the search. The letter also includes a schedule of references found.

**(D) Submission of References.** Also attached is an Information Disclosure Form PTO/SB/08A listing the references located during the search. A copy of each reference is also enclosed.

The following are the prior art references deemed by the Applicant to be most closely related to the subject matter encompassed by the claims of the pending application.

Patent No.	Inventor	Issue/Pub Date	Title
5,358,503	Bertwell	10/25/1994	Photo-Thermal Therapeutic Device and Method
5,997,569	Chen	12/7/1999	Flexible and Adjustable Grid for Medical Therapy
2002/0198575	Sullivan	12/26/2002	Photo-Therapy Device
2003/0187486	Savage, Jr.	10/2/2003	Portable Light Delivery Apparatus and Methods

**(E) Detailed Discussion of the References and Patentable Subject Matter.**

The following is a discussion summarizing each reference uncovered in the search and analyzing the patentability of the claimed invention over the references. The independent claims of the present invention, claims 1, 6 and 16, each recite a first configuration wherein the housing unit is attached to the LED pad and a second configuration wherein the housing unit is detached from the LED pad. As described in greater detail below, none of the cited references disclose this feature.

**U.S. Patent No. 5997,569 issued to Chen**

Chen discloses a flexible array of probes, each probe having a flexible substrate on which are mounted light emitting devices. The flexible probes are arranged to achieve a desired light distribution pattern for administering light therapy at a treatment site in a patient's body. Chen does not disclose a first configuration wherein the housing unit is attached to the LED pad and a second configuration wherein the housing unit is detached from the LED pad. Therefore, the present invention is patentable over the Chen patent.

**U.S. Patent No. 5,358,503 issued to Bertwell, et al.**

Bertwell et al. discloses a flexible pad for holding a plurality of juxtaposed diodes and a control unit separated from the flexible pad. Bertwell et al. does not disclose a first configuration wherein the housing unit is attached to the LED pad and a second configuration wherein the housing unit is detached from the LED pad. Therefore, the present invention is patentable over the Bertwell patent.

**U.S. Patent App. Pub. No. 2002/0198575 A1**

Inventor: Sullivan

The Sullivan application is directed to a device having an LED unit with a generally box shaped housing and a control box separate from the LED unit. Sullivan does not disclose a device having a first configuration wherein the housing unit is attached to the LED pad and a second configuration wherein the housing unit is detached from the LED pad. Therefore, the present invention is patentable over the Sullivan application.

**U.S. Patent App. Pub. No. 2003/0187486 A1**

Inventor: Savage, Jr. et al.

The Savage, Jr. application is directed to a portable light delivery device that includes an attachment member for securing the device to a region of the body. Savage, Jr. does not disclose a device having a first configuration wherein the housing unit is attached to the LED pad and a second configuration wherein the housing unit is detached

from the LED pad. Therefore, the present invention is patentable over the Savage, Jr. application.

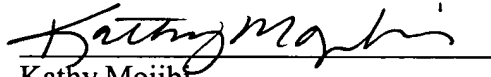
### CONCLUSION

Having satisfied the requirements for the Advancement of Examination as set forth in 37 C.F.R. §1.102(d) and MPEP 708.02, the Applicants hereby seek accelerated examination of this patent application.

The Commissioner is authorized to charge any fee to our Deposit Account No. 50-2922.

Respectfully Submitted,

Date: February 17, 2004

  
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